

HOWARD M. GARFIELD State Bar #43369  
*Hgarfield@longlevit.com*  
DAVID P. BOROVSKY State Bar #216588  
*DBorovsky@longlevit.com*  
LONG & LEVIT LLP  
465 California Street, Suite 500  
San Francisco, CA 94104  
TEL: (415) 397-2222 FAX: (415) 397-6392

Attorneys for Defendants  
NOVOGRADAC & COMPANY, LLP and JON  
KRABBENSCHMIDT

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SANTA ROSA DIVISION

IN RE:

SOLSTICE, LLC, et al.,

Debtors,

SOLSTICE, LLC,

Plaintiff,

vs.

NOVOGRADAC & COMPANY LLP; JON  
KRABBENSCHMIDT,

Defendants.

[S.D.N.Y Bankr. Case No. 09-11010 (REG)]

Chapter 11 (Jointly Administered)

Adversary Proceeding No. 09-01186

**EX PARTE MOTION FOR ORDER  
GRANTING SHORT-TERM EXEMPTION  
FROM E-FILING REQUIREMENTS  
PENDING COMPLETION OF TRAINING  
SESSION**

**ORDER GRANTING SHORT-TERM  
EXEMPTION FROM E-FILING  
REQUIREMENTS**

Defendants Novogradac & Company LLP and and Jon Krabbenschmidt hereby apply to  
the Court for an ex parte Order Granting Short-Term Exemption From E-Filing Requirements  
Pending Completion Of Training Session. This application, which seeks permission to file

documents in the above adversary proceeding on paper until January 25, 2010, is based on the Declaration of David P. Borovsky set forth below.

Dated: December 29, 2009

LONG & LEVIT LLP

By /s/  
HOWARD M. GARFIELD  
DAVID P. BOROVSKY  
Attorneys for Defendants  
NOVOGRADAC & COMPANY, LLP  
and JON KRABBENSCHMIDT

**DECLARATION OF DAVID P. BOROVSKY**

I, David P. Borovsky, declare:

1. I am an attorney admitted to practice law in the State of California, and am an associate with Long & Levit LLP, counsel for Defendants Novogradac & Company, LLP (“Novogradac”), an accounting firm, and Jon Krabbenschmidt (“Krabbenschmidt”), a member of that firm.

2. On November 12, 2009, the Plaintiff Solstice, LLC, a Chapter 11 debtor in a case pending in the U.S. Bankruptcy Court for the Southern District of New York, filed an action in Marin Superior Court, asserting, among other things, claims against my clients for accounting malpractice.

3. My firm was first retained to defend this action on or about December 14, 2009.

4. On December 23, 2009, my clients removed the Marin Superior Court action (more specifically, the Third Cause of Action therein) to this Court pursuant to the provisions of 28 U.S.C. 1452, as Adversary Proceeding No. 09-01186. The notice of removal was filed on paper because neither my firm, Long & Levit LLP, nor any of its attorneys, is registered for electronic filing with the United States Bankruptcy Court, Northern District of California.

5. Also on December 23, 2009, my clients filed a Notice Of Related Adversary Proceedings, which identified Adversary Proceeding No. 09-1179, entitled *Solstice LLC v. Winston & Strawn LLP, et al*, as related because it arises from the same lawsuit by plaintiff

1 Solstice in Marin Superior Court. In that related Adversary Proceeding, defendants Winston &  
2 Strawn LLP and Jonathan Cohen, have filed a Motion to Transfer Venue to the U.S. Bankruptcy  
3 Court for the Southern District of New York, which was noticed for hearing on January 22, 2010.

4 6. Defendants Novogradac and Krabbenschmidt intend to file a similar Motion to  
5 Transfer Venue to the U.S. Bankruptcy Court for the Southern District of New York, or  
6 alternatively, a joinder in the motion pending in the related Adversary Proceeding No. 09-1179.  
7 In addition, if necessary, defendants Novogradac and Krabbenschmidt intend to file a responsive  
8 pleading to plaintiff Solstice's complaint, within the time agreed to by plaintiff and these  
9 defendants—February 18, 2010.

10 7. As noted above, neither my law firm, Long & Levit LLP, nor any of its attorneys,  
11 is registered as an electronic filer with the United States Bankruptcy Court, Northern District of  
12 California. Immediately upon learning of the Court's requirements for electronic filing, my firm  
13 requested permission to file electronically with this Court using our electronic filing registration  
14 information on file with the United States District Court, Northern District of California.

15 8. Upon being denied permission to use my existing District Court electronic filing  
16 registration information, on December 23, 2009, I registered for an ECF training class for United  
17 States Bankruptcy Court, Northern District of California. I registered for the first available  
18 training class that did not present a scheduling conflict: **January 21, 2010 at 9:15 at the U.S.**  
19 **Bankruptcy Court in Oakland, California**, and I intend to attend the training class on that date.

20 9. I anticipate that before completing this training session, I will need to file  
21 documents with the Court, including the Motion to Transfer Venue identified in paragraph 6  
22 above, and possibly other documents as well, such as a responsive pleading to plaintiff's  
23 complaint.

24 10. Given the above training class schedule, I anticipate that I will be registered to  
25 electronically file with the Court by January 25, 2010. As such, I request that the Court grant my  
26 firm a short-term exemption from the requirement that documents in the above adversary-  
27 proceeding be electronically filed, until that date. During this period of exemption from  
28 electronic filing, and in order to alleviate the resulting burden on the Court as much as possible,

1 any paper documents filed by my firm will be concurrently submitted on a disk or in other  
2 electronic format as designated by the Court.

3 11. On December 28, 2009, I telephoned Joshua Markowitz, Esq., plaintiff's counsel,  
4 to introduce my firm and to notify him that I would be making this request via ex parte motion.  
5 Mr. Markowitz advised me that he had no objection to this request, and that he anticipated filing a  
6 similar ex parte motion. In addition, as indicated on the attached proof of service, a copy of this  
7 ex parte motion has been served on Mr. Markowitz as well.

1 I declare under penalty of perjury of the laws of the United States that the foregoing is  
2 true and correct, that I have personal first hand knowledge thereto, and that this declaration is  
3 executed on December 28, 2009 at San Francisco California.

4  
5 /s/  
DAVID P. BOROVSKY

1  
2 **ORDER GRANTING SHORT-TERM EXEMPTION FROM E-FILING**  
3 **REQUIREMENTS**

4 Good cause appearing, it is hereby ordered that:

5 A. Long & Levit LLP, counsel of record for defendants Novogradac & Company LLP  
6 and Jon Krabbenschmidt, shall have permission to file documents on paper in Adversary  
7 Proceeding No. 09-01186 **until January 25, 2010**;

8 B. All documents filed on paper during that time period which are more than five  
9 pages in length shall be accompanied by a disc containing the pleading in .pdf format.

10 C. Should any additional extension of this time for paper filing be necessary, counsel  
11 shall submit a separate ex parte motion requesting the same.

12 IT IS SO ORDERED

13 Dated: December 31, 2009

14   
15 Alan Jaroslovsky  
16 U.S. Bankruptcy Judge

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